

Effective 5/10/2016

62A-2-106 Office responsibilities.

- (1) Subject to the requirements of federal and state law, the office shall:
- (a) make rules in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, to establish:
 - (i) except as provided in Subsection (1)(a)(ii), basic health and safety standards for licensees, that shall be limited to:
 - (A) fire safety;
 - (B) food safety;
 - (C) sanitation;
 - (D) infectious disease control;
 - (E) safety of the:
 - (I) physical facility and grounds; and
 - (II) area and community surrounding the physical facility;
 - (F) transportation safety;
 - (G) emergency preparedness and response;
 - (H) the administration of medical standards and procedures, consistent with the related provisions of this title;
 - (I) staff and client safety and protection;
 - (J) the administration and maintenance of client and service records;
 - (K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;
 - (L) staff to client ratios;
 - (M) access to firearms; and
 - (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
 - (ii) basic health and safety standards for therapeutic schools, that shall be limited to:
 - (A) fire safety, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (B) food safety;
 - (C) sanitation;
 - (D) infectious disease control, except that the standards are limited to:
 - (I) those required by law or rule under Title 26, Utah Health Code or Title 26A, Local Health Authorities; and
 - (II) requiring a separate room for clients who are sick;
 - (E) safety of the physical facility and grounds, except that the standards are limited to those required by law or rule under Title 53, Chapter 7, Part 2, Fire Prevention and Fireworks Act;
 - (F) transportation safety;
 - (G) emergency preparedness and response;
 - (H) access to appropriate medical care, including:
 - (I) subject to the requirements of law, designation of a person who is authorized to dispense medication; and
 - (II) storing, tracking, and securing medication;
 - (I) staff and client safety and protection that permits the school to provide for the direct supervision of clients at all times;
 - (J) the administration and maintenance of client and service records;
 - (K) staff qualifications and training, including standards for permitting experience to be substituted for education, unless prohibited by law;

- (L) staff to client ratios;
- (M) access to firearms; and
- (N) the prevention of abuse, neglect, exploitation, harm, mistreatment, or fraud;
- (iii) procedures and standards for permitting a licensee to:
 - (A) provide in the same facility and under the same conditions as children, residential treatment services to a person 18 years old or older who:
 - (I) begins to reside at the licensee's residential treatment facility before the person's 18th birthday;
 - (II) has resided at the licensee's residential treatment facility continuously since the time described in Subsection (1)(a)(iii)(A)(I);
 - (III) has not completed the course of treatment for which the person began residing at the licensee's residential treatment facility; and
 - (IV) voluntarily consents to complete the course of treatment described in Subsection (1)(a)(iii)(A)(III); or
 - (B)
 - (I) provide residential treatment services to a child who is:
 - (Aa) 12 years old or older; and
 - (Bb) under the custody of the Department of Human Services, or one of its divisions; and
 - (II) provide, in the same facility as a child described in Subsection (1)(a)(iii)(B)(I), residential treatment services to a person who is:
 - (Aa) at least 18 years old, but younger than 21 years old; and
 - (Bb) under the custody of the Department of Human Services, or one of its divisions;
- (iv) minimum administration and financial requirements for licensees;
- (v) guidelines for variances from rules established under this Subsection (1);
- (vi) minimum ethical responsibilities of an adoption agency licensed under this chapter, including prohibiting an adoption agency or its employee from misrepresenting facts or information;
- (vii) what constitutes an "outpatient treatment program" for purposes of this chapter;
- (viii) a procedure requiring a licensee to provide an insurer the licensee's records related to any services or supplies billed to the insurer, and a procedure allowing the licensee and the insurer to contact the Insurance Department to resolve any disputes;
- (ix) a protocol for the office to investigate and process complaints about licensees; and
- (x) a procedure for licensees to report incidents;
- (b) enforce rules relating to the office;
- (c) issue licenses in accordance with this chapter;
- (d) if the United States Department of State executes an agreement with the office that designates the office to act as an accrediting entity in accordance with the Intercountry Adoption Act of 2000, Pub. L. No. 106-279, accredit one or more agencies and persons to provide intercountry adoption services pursuant to:
 - (i) the Intercountry Adoption Act of 2000, Pub. L. No. 106-279; and
 - (ii) the implementing regulations for the Intercountry Adoption Act of 2000, Pub. L. No. 106-279;
- (e) make rules to implement the provisions of Subsection (1)(d);
- (f) conduct surveys and inspections of licensees and facilities in accordance with Section 62A-2-118;
- (g) collect licensure fees;
- (h) notify licensees of the name of a person within the department to contact when filing a complaint;
- (i) investigate complaints regarding any licensee or human services program;

- (j) have access to all records, correspondence, and financial data required to be maintained by a licensee;
 - (k) have authority to interview any client, family member of a client, employee, or officer of a licensee;
 - (l) have authority to deny, condition, revoke, suspend, or extend any license issued by the department under this chapter by following the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act;
 - (m) electronically post notices of agency action issued to a human services program, with the exception of a foster home, on the office's website, in accordance with Title 63G, Chapter 2, Government Records Access and Management Act; and
 - (n) upon receiving a local government's request under Section 62A-2-108.4, notify the local government of new human services program license applications, except for foster homes, for human services programs located within the local government's jurisdiction.
- (2) In establishing rules under Subsection (1)(a)(ii)(G), the office shall require a licensee to establish and comply with an emergency response plan that requires clients and staff to:
- (a) immediately report to law enforcement any significant criminal activity, as defined by rule, committed:
 - (i) on the premises where the licensee operates its human services program;
 - (ii) by or against its clients; or
 - (iii) by or against a staff member while the staff member is on duty;
 - (b) immediately report to emergency medical services any medical emergency, as defined by rule:
 - (i) on the premises where the licensee operates its human services program;
 - (ii) involving its clients; or
 - (iii) involving a staff member while the staff member is on duty; and
 - (c) immediately report other emergencies that occur on the premises where the licensee operates its human services program to the appropriate emergency services agency.

Amended by Chapter 211, 2016 General Session

Amended by Chapter 342, 2016 General Session